Court No.2

Civil Petition No. 710 (M/S) of 2002.

Kunal Sachdeva and others ..... Petitioners

Versus

Gyan Chand Nayak and others ..... Respondents.

.....

Hon'ble P.C. Verma, J.

This writ petition has been filed by the petitioners challenging the order dated 07.09.2002 passed by the appellate court on Misc. Civil Appeal No. 08 of 2002 which was filed against the order of the trial Court-Civil Judge (Sr.Division)/III Fast Track Court, Roorkee (District Hardwar), allowing the application under Order 39 Rule 1 & 2 of the Civil Procedure Code.

The order was passed pending disposal of the objection under Order 39 Rule 2 C.P.C. The petitioners without filing an objection under Order 39 Rule 4 C.P.C. filed an appeal. The appellate court has considered in detail the each and every point raised in the appeal and has passed cogent and reasoned order. Since both the courts have given the reasons for granting the ex parte interim injunction, therefore this Court cannot interfere in view of the Full Bench decision in the case of Ganga Sharan versus Civil Judge, Hapur, Ghaziabad and others, reported in A.W.C. 1991, page 213. The objection of the petitioners that the suit is not maintainable is yet to be decided by the trial court. The trial court shall decide the issue after the evidence led by the parties and shall pass final order within a period of six months from the date of production of certified copy of this order.

With the aforesaid observation, the petition is disposed of finally.

(P.C. Verma, J.)

23.09.2002
P.Singh